

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
Against:)**

BAHRAM VARJAVAND, M.D.)

File No. 800-2015-013932

**Physician's and Surgeon's)
Certificate No. A 62527)**

Respondent)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 8, 2017.

IT IS SO ORDERED August 10, 2017.

MEDICAL BOARD OF CALIFORNIA

**By: Michelle Anne Bholat M.D.
Michelle Anne Bholat, M.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 MARA FAUST
Deputy Attorney General
4 California Department of Justice
State Bar No. 111729
5 1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
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Attorneys for Complainant

9
10 **BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **BAHRAM VARJAVAND, M.D.**
2800 L Street, Suite 500
14 Sacramento, CA 95816-5616

15 Physician's and Surgeon's Certificate No. A 62527

16 Respondent.

Case No. 800-2015-013932

OAH No. 2016110380

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Mara Faust, Deputy
24 Attorney General.

25 2. Respondent Bahram Varjavand, M.D. (Respondent) is represented in this proceeding
26 by attorney Robert J. Sullivan, Esq., whose address is: 621 Capitol Mall, 25th Floor, Sacramento,
27 CA 95814.

28 ///

3. On or about May 30, 1997, the Board issued Physician's and Surgeon's Certificate No. A 62527 to Bahram Varjavand, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2015-013932, and will expire on July 31, 2018, unless renewed.

JURISDICTION

4. Accusation No. 800-2015-013932 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 14, 2016. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2015-013932 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2015-013932. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 800-2015-013932, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

12. Complainant hereby dismisses the Fourth Cause for Discipline.

CIRCUMSTANCES IN MITIGATION

13. Respondent Bahram Varjavand, M.D. has never been the subject of any disciplinary action. He is admitting responsibility at an early stage in the proceedings. When respondent learned that patient M.H. had suffered a stroke he was at a hospital in Roseville. While respondent traveled to Sacramento he directed staff on how to set up the equipment in the procedure room. When he arrived, the ultrasound machine was not by the patient. Respondent had to step away to locate the ultrasound machine. After the commencement of the procedure the patient was in the process of freeing her hand and attempting to enter the sterile field by her groin. It was in these exigent circumstances that respondent struck the patient's hand.

CONTINGENCY

14. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

1 successfully complete the classroom component of the program not later than six (6) months after
2 Respondent's initial enrollment, and the longitudinal component of the program not later than the
3 time specified by the program, but no later than one (1) year after attending the classroom
4 component. The professionalism program shall be at Respondent's expense and shall be in
5 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

6 A professionalism program taken after the acts that gave rise to the charges in the
7 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
8 or its designee, be accepted towards the fulfillment of this condition if the program would have
9 been approved by the Board or its designee had the program been taken after the effective date of
10 this Decision.

11 Respondent shall submit a certification of successful completion to the Board or its
12 designee not later than 15 calendar days after successfully completing the program or not later
13 than 15 calendar days after the effective date of the Decision, whichever is later.

14 4. VIOLATION OF THIS AGREEMENT. Failure to fully comply with any term or
15 condition of this agreement is unprofessional conduct. If respondent violates this agreement in
16 any respect, the Board may reinstate the accusation and/or file an amended accusation.

17
18 ACCEPTANCE

19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
20 discussed it with my attorney, Robert J. Sullivan, Esq.. I understand the stipulation and the effect
21 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement
22 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
23 Decision and Order of the Medical Board of California.

24
25
26 DATED: February 24, 2017

27 
28 _____
BAHRAM VARJAVAND, M.D.
Respondent

1 I have read and fully discussed with Respondent Bahram Varjavand, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4
5 

6 DATED: 2/27/2017

7 ROBERT J. SULLIVAN, ESQ.
8 *Attorney for Respondent*

9
10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12 submitted for consideration by the Medical Board of California.

13 Dated: 2/27/2017

14 Respectfully submitted,

15 XAVIER BECERRA
16 Attorney General of California
17 ALEXANDRA M. ALVAREZ
18 Supervising Deputy Attorney General

19 

20 MARA FAUST
21 Deputy Attorney General
22 *Attorneys for Complainant*

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EXHIBIT A

1 KAMALA D. HARRIS
2 Attorney General of California
3 VLADIMIR SHALKEVICH
4 Acting Supervising Deputy Attorney General
5 MARA FAUST
6 Deputy Attorney General
7 State Bar No. 111729
8 California Department of Justice
9 1300 I Street, Suite 125
10 P.O. Box 944255
11 Sacramento, CA 94244-2550
12 Telephone: (916) 324-5358
13 Facsimile: (916) 327-2247
14 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO SEP 14 2016
BY *[Signature]* ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2015-013932

Bahram Varjavand, M.D.
2800 L Street, Suite 500
Sacramento, CA 95816-5616

A C C U S A T I O N

Physician's and Surgeon's Certificate No. A 62527,
Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about May 30, 1997, the Medical Board issued Physician's and Surgeon's Certificate Number A 62527 to Bahram Varjavand, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2018, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2234 of the Code, states in relevant part that:

2 “The board shall take action against any licensee who is charged with unprofessional
3 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
4 limited to, the following:

5 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
6 violation of, or conspiring to violate any provision of this chapter.

7 “(b) Gross negligence.

8 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
9 omissions. An initial negligent act or omission followed by a separate and distinct departure from
10 the applicable standard of care shall constitute repeated negligent acts.

11 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
12 for that negligent diagnosis of the patient shall constitute a single negligent act.

13 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
14 constitutes the negligent act described in paragraph (1), including, but not limited to, a
15 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
16 applicable standard of care, each departure constitutes a separate and distinct breach of the
17 standard of care.

18 ...”

19 5. Section 2261 of the Code states:

20 “Knowingly making or signing any certificate of other document directly or indirectly
21 related to the practice of medicine or podiatry which falsely represents the existence or
22 nonexistence of a state of facts, constitutes unprofessional conduct.”

23 6. Section 2266 of the Code states:

24 “The failure of a physician and surgeon to maintain adequate and accurate records relating
25 the provision of services to their patients constitutes unprofessional conduct.”

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27 ///

28 ///

FIRST CAUSE FOR DISCIPLINE
(Gross Negligence)

7. Respondent Bahram Varjavand, M.D. is subject to disciplinary action under section 2234(b) in that he was grossly negligent in his care and treatment of patient M.H. The circumstances are as follows:

8. On or about May 4, 2015, between approximately 6:00 pm and 6:45 pm, Respondent, who is an interventional radiologist, entered Sutter General Hospital's Room 9 to perform a cerebral angiogram. Respondent intended to perform this procedure on M.H., a 99-year old patient who had just suffered a stroke. The cerebral angiogram procedure involves the practitioner gaining access into the patient's femoral artery, near the patient's groin, by inserting and threading a catheter from the patient's femoral artery to the brain. The catheter absorbs and/or extracts any blood clots and can control bleeding in the patient's brain.

9. Previously, between approximately 5:30 pm and 5:50 pm, three female ancillary staff, namely registered nurse (hereinafter RN) J.H., technician K.C. and RN A.V., prepared both Room 9 and the equipment in Room 9 for the medical procedure. In addition, ancillary staff prepared patient M.H., by restraining the patient's head and hands to the surgical table, as well as covering portions of her body with drapes. When Respondent entered the room, he was immediately upset that the ultrasound machine was not fully ready and had not been placed by patient M.H.'s head. Respondent yelled, using profanity, at technician K.C., regarding the fact that the ultrasound machine was not ready.

10. As the procedure began, Respondent started to gain access to the femoral artery to insert a guide wire into the femoral artery, near the patient's groin, while the patient was lying on a table with her head taped to the table and her right arm was restrained to a board. At that time, the patient managed to move or wriggle her hand toward her groin, a sterile field where Respondent was trying to insert the guide wire. Respondent immediately grabbed the patient's right arm with his hands and yelled at the patient "God Damn It! Don't F-cking Move! I Said Don't Move." Respondent was standing to the side of the patient when he then took patient M.H.'s right hand and hit it with his closed fist hard. The patient was not yet sedated and she

cried out in pain. Respondent then yelled at technician K.C. "Look at what you made me do! This is all your fault."

11. After the hitting incident occurred, but during the procedure, Charge Nurse G.S. came into the room to make her observations. As G.S. was J.H.'s supervisor, J.H. wrote on a piece of paper "He hit the patient" and gave the note to G.S. G.S then then left the room. This note exchange occurred approximately between 6:45 and 6:55pm.

12. Once the procedure was completed, Respondent requested to look at the patient's right hand. Staff removed the drape over the hand and observed that the hand was bleeding and bruised. Respondent ordered that the hand be x-rayed. Later Respondent returned to the room and told staff that he had informed the son how his mother had received the injury. However, Respondent's version as told to the son was that he had grabbed the patient's hand and not that he hit her hand with a fist. Respondent never documented in the patient's chart that the bruising and bleeding of the hand occurred at all, nor how it occurred.

13. Respondent's conduct of swearing at patient M.H., when she moved her hand constitutes an extreme departure from the standard of care in violation of Business and Professions Code section 2234(b). Respondent's act of hitting the patient's right hand with his closed fist also constitutes an extreme departure from the standard of care in violation of Business and Professions Code section 2234(b).

SECOND CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

14. Respondent Bahram Varjavand, M.D. is subject to disciplinary action under section 2234(c) in that he was repeatedly negligent in his care and treatment of patient M.H. The circumstances are as follows:

15. Complainant re-alleges paragraphs 8-13 above and incorporates them by reference herein as though fully set forth.

16. Respondent's failure to document and/or report M.H's bruising of her right hand as an unexpected consequence of the procedure constitute a simple departure from the standard of care. Additionally, Respondent's conduct of swearing at the patient constitutes a simple departure

1 from the standard of care, as does the hitting the patient's right hand with a closed fist. These
2 three departures in any combination constitute repeated negligent acts in violation of Business
3 and Professions Code section 2234(c).

4 **THIRD CAUSE FOR DISCIPLINE**
5 **(General Unprofessional Conduct)**

6 17. Respondent Bahram Varjavand, M.D. is subject to disciplinary action under section
7 2234 in that his treatment of patient M.H. constitutes general unprofessional conduct. The
8 circumstances are as follows:

9 18. Complainant re-alleges paragraphs 8-13 above and incorporates them by reference
10 herein as though fully set forth.

11 19. Respondent's conduct of swearing at patient M.H., when she moved her hand and his
12 action of hitting the patient's right hand with his closed fist constitutes general unprofessional
13 conduct in violation of Business and Professions Code section 2234.

14 **FOURTH CAUSE FOR DISCIPLINE**
15 **(Knowingly Creating a False Medical Record)**

16 20. Respondent Bahram Varjavand, M.D. is subject to disciplinary action under section
17 2261 in that he knowingly made or signed a document directly related to the practice of medicine
18 which falsely represented the existence or nonexistence of a state of facts. The circumstances are
19 as follows:

20 21. Complainant re-alleges paragraphs 8-13 above and incorporates them by reference
21 herein as though fully set forth. Respondent's omission of information about M.H.'s
22 intraoperative hand injury from her medical records constitutes unprofessional conduct within the
23 meaning of Business and Professions Code section 2261.

24 **FIFTH CAUSE FOR DISCIPLINE**
25 **(Inadequate Record Keeping)**

26 22. Respondent Bahram Varjavand, M.D. is subject to disciplinary action under section
27 2266 in that he failed to keep adequate and accurate medical records. The circumstances are as
28 follows:

23. Complainant re-alleges paragraphs 8-13 above and incorporates them by reference herein as though fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 62527, issued to Bahram Varjavand, M.D.;
2. Revoking, suspending or denying approval of Bahram Varjavand, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;
3. Ordering Bahram Varjavand, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: September 14, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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